IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 20858 of 2007(G)

PETITIONER:

ALEX K. BABU, S/O. K.C. BABU,
AGED 27 YEARS,
KALLUVILA GALILEE,
VENGALAM P.O.,
KOZHIKODE.

BY ADV. SRI.K.P.DANDAPANI (SR.)
SRI.PAUL MATHEW
SRI.SONY.K.B.
SRI.SREENIJIN.P.V.

RESPONDENTS:

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1. THE VILLAGE OFFICER,
CHEMANCHERI.

2. THE TAHSILDAR , QUILANDY.

3. THE DISTRICT COLLECTOR,
KOZHIKODE.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.20858 OF 2007

DATED THIS THE 6th DAY OF JULY, 2007

JUDGMENT

The petitioner challenges Ext.P9 notice by which the petitioner has been directed to vacate the properties mentioned therein within three days. The contention of the petitioner is that the property mentioned in Ext.P9 is not Government land but belongs absolutely to the petitioner. The petitioner also submits that Ext.P9 notice has not been preceded by any notice to show cause or hearing and therefore, the same is violative of principles of natural justice as well as the provisions of the Kerala Land Conservancy Act and Rules.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that Ext.P9 was preceded by any notice or hearing. Although in the notice it is sated that in order to maintain ecological balance it is necessary to restore the property to its previous state, in so far as the petitioner was in possession of the property for quite some time, I am unable to hold that the respondents are entitled to invoke the emergency provisions also. In view of the above findings, it is clear that Ext.P9 notice has been issued in violation of the principles of natural justice and in

violation of the Kerala Land Conservancy Act and Rules. However, if Ext.P9 is treated as a show cause notice, it would not be necessary to quash the same. Accordingly, I dispose of this writ petition with the following directions.

The 2nd respondent shall treat Ext.P9 as a show cause notice directing the petitioner to show cause as to why the petitioner should not be evicted from the property in question. The petitioner shall file objections within one week from today. The 2nd respondent shall conduct a hearing with opportunity to adduce evidence also. Thereafter the 2nd respondent shall pass a speaking order dealing with the contentions of the petitioner on the basis of evidence to be produced by the petitioner. Till orders thus passed are communicated to the petitioner, he shall not be evicted from the property in question

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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